

Alternative Dispute Resolution Committee
Judicial Conference of Indiana

MINUTES
January 27, 2006

1. Members present: David Avery, Jerry Barr, Daniel Burke, Brent Dickson, Steven Frank, Matthew Headley, Edward Nemeth, Mary Ann Oldham, Terry Shewmaker.
2. The members unanimously approved the minutes.
3. The members discussed how each of them uses ADR.
 - a. Judge Shewmaker said he uses ADR in almost all of his jury trials, and in domestic relations cases. He would like to see it tried in criminal restorative justice and non-violent victim offender restitution programs (VORPs).
 - b. Judge Headley said he uses a facilitator mostly for divorce, custody, and CHINS cases. He also asks the parties to use ADR in civil cases.
 - c. Magistrate Nemeth said he uses mediation in most of his disputed CHINS cases. He also uses ADR in pro se cases. His county has a free family court mediation program.
 - d. Magistrate Burke said he does not use mediation very much in his court. He gets some parties to use ADR in domestic relations cases, but his county does not have a HB 1034 plan. He wants to implement early pretrial conferences. Judge Shewmaker recommended requiring that the parties submit financial disclosures before giving them a spot on the court's calendar.
 - e. Justice Dickson has used mediation one time – in an appellate visitation/custody/guardianship case. It worked. He said that the Court of Appeals has mentioned started an appellate mediation program.
 - f. Judge Frank said that mediation was used often in Marion County, because the lawyers were programmed to expect it.
 - g. Judge Avery said that the Allen Superior Court – Civil Division adopted a policy that virtually all CT and PL civil cases, and some CC cases, are ordered to mediation. The parties don't get a trial date until the case has been mediated. There is a 70-80% success rate in the mediation of these civil cases. Judge Avery is able to set a five-day jury trial in eight months, with no second settings. The other judges in the Civil Division can set trials 18 months out. Judge Avery said for the Family Division that any domestic relations matter in which the hearing will take more than two hours must be mediated. Allen County has also been using judicial settlement conferences successfully. He said that ADR gives the parties a dose of reality.
4. The members discussed the purpose of the committee:
 - a. To monitor the ADR rules, and
 - b. To promote ADR within the State.

5. Justice Dickson stated that the Supreme Court wants to encourage participation in the State Bar ADR section.
6. The members discussed a mediator's ethical participation in cases, especially with regard to drafting documents and getting them before a court. Judge Avery asked that someone from the committee serve on the State Bar Task Force on this matter. Commissioner Oldham agreed to serve.
7. The members discussed the possibility of future ADR education for judges. The committee requested Justice Dickson to ask the Indiana Supreme Court to establish a 40-hour mediation training program for judges.
8. The members briefly discussed the possibility of judicial district meetings to discuss the implementation of HB 1034 plans.
9. The members discussed an annual case law update, focusing on Indiana law, trends, other jurisdictions, and disciplinary complaints. The members discussed that the Indiana law schools may want to prepare the update, or that practicing attorneys might do it, if they get to present the matter to judges.
10. The members saved the following topics for the next meeting:
 - a. Use of retired attorneys and/or judges for pro bono ADR and the CLE requirements.
 - b. Need to seek to revise IC 33-38-10 (the private judge statute) to make it available for matters other than domestic relations and for former appellate judges.
 - c. Use of senior judges to conduct judicial settlement conferences.
11. Future Meeting Date: May 12, 2006 at IJC at 10am.
12. The meeting was adjourned.

Respectfully Submitted,

Julie C. Sipe